



DEPARTMENT OF EDUCATION

[Docket No. ED-2018-ICCD-0010]

Agency Information Collection Activities; Comment Request; Application for Flexibility for Equitable Per-pupil Funding

AGENCY: Department of Education (ED), Office of Elementary and Secondary Education (OESE).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction of 1995, ED is requesting the Office of Management and Budget (OMB) to conduct an emergency review of a new information collection.

DATES: Approval by the OMB has been requested by 2/7/2018. A regular clearance process is also hereby being initiated. Interested persons are invited to submit comments on or before [INSERT THE 60TH DAY AFTER PUBLICATION OF THIS NOTICE].

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED-2018-ICCD-0010. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. Please note that comments submitted by fax or e-mail and those submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue, SW, LBJ, Room 216-44, Washington, D.C. 20202-4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Jessica McKinney, 202-401-1960.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner;

(3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Application for Flexibility for Equitable Per-pupil Funding

OMB Control Number: 1810-NEW

Type of Review: New collection (Request for a new OMB Control Number)

Respondents/ Affected Public: State, Local and Tribal Governments

Total Estimated Number of Annual Responses: 20

Total Estimated Number of Annual Burden Hours: 1,120

Abstract: This is a request for emergency clearance to collect critical information for the Application for Flexibility for Equitable Per-pupil Funding, the instrument through which local educational agencies (LEAs) apply for flexibility to consolidate eligible Federal funds and State and local education funding based on weighted per-pupil allocations for low-income and otherwise disadvantaged students. This program allows LEAs to consolidate funds under the Elementary and Secondary Education of 1965 Federal education programs.

These Federal education programs were reauthorized by the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). The ESSA added a new program to the ESEA, the Flexibility for Equitable Per-pupil Funding under section 1501. This discretionary flexibility allows the U.S. Department of Education (Department) to offer an LEA the opportunity to consolidate funds under the above-listed programs to support the LEA in creating a single school funding system based on weighted per-pupil allocations for low-income and otherwise disadvantaged students, with attendant flexibility in using those funds. For the initial three-year period, the Department may approve this flexibility for up to 50 LEAs.

Given the priority of an orderly transition, the earliest available time to award flexibility related to the use of federal funding was School Year 2018-2019, which mostly takes place during FY 2019. This aligns with States' transition to "full" compliance, as all provisions of the law will be effective by FY 2019, including those that were otherwise delayed under orderly transition authority. This timeframe also aligns with the implementation of the other pilot program provided in ESSA, the Innovative Assessment Demonstration Authority (IADA).

Although an approximate timeframe was established, by necessity, the planning for a new and potentially far-reaching program could not begin in earnest until new political leadership had been appointed. This planning began in mid-2017 following the appointment of Secretary DeVos and other political leadership.

The scope of work for the development of the application was significant. The program is entirely new and involves broad authority for the Secretary to waive provisions of the ESEA, although only after a successful applicant meets several dozen precise and technical requirements related to the allocation, use and reporting of funds. Given that the program is new and highly technical, affects the use of federal funds, waives other federal requirements, and involves a potential applicant pool of thousands of school districts, the development of an application required significant legal and policy analysis, which lasted several months.

Lastly, between enactment of ESSA and the present date, there were also several major anticipated and unanticipated events, including a change in Presidential and Secretarial administration, Congressional action that eliminated certain implementing regulations of the law, and significant turnover in staff related to both the change in administration and natural attrition over a period of multiple years. These events impact the capacity, decision-making structure, and institutional knowledge of the Department, causing it to be less agile and to move at a slower velocity for some period. Fortunately in recent months that has changed. However, due to these events, including some that were unforeseen, as well as the other conditions described in the paragraphs above, the development of the application was affected.

The end result remains that a traditional paperwork clearance would have resulted in applicants being unable to use the awarded flexibility until the 2019-2020 school year, which would delay a program that Congress intended to equitably allocate resources to educationally disadvantaged students. Therefore, the Department is seeking emergency clearance.

Dated: February 2, 2018.

Tomakie Washington, Acting Director,
Information Collection Clearance Division,
Office of the Chief Privacy Officer (OCPO),
Office of Management.

[BILLING CODE 4000-01-P]

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